



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone 800-227-8917  
www.epa.gov/region8

APR 06 2018

Ref: 8ENF-W-NP

**SENT ELECTRONICALLY AND VIA CERTIFIED MAIL**

Tom Hall, Director  
Municipal, Rural, and Industrial Program  
Crow Tribe Water Resources Department  
P.O. Box 520  
Crow Agency, Montana 59022

Re: Request for Information Pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318

Dear Mr. Hall:

The U.S. Environmental Protection Agency is investigating the compliance of the Crow Tribe (the Tribe) and the Crow Tribe Water Resources Department (Water Resources Department) with the requirements of the Clean Water Act (CWA). This pertains to the Tribally owned and operated Crow Agency Wastewater Lagoon, located in Crow Agency, Montana on the Crow Reservation and operated on behalf of the Tribe by the Water Resources Department. As we discussed by phone on March 22, 2018, the EPA requests that the Tribe provide the information requested with this letter as part of the EPA's investigation. The EPA has the authority to request this information under section 308 of the Clean Water Act, 33 U.S.C. § 1318, in order to carry out its responsibilities for protecting our nation's water from pollution.

Please send the requested information **by the dates included in the Information Request (Enclosure 2)** to the following:

U.S. EPA Region 8 (8ENF-W-NP)  
NPDES Enforcement Unit  
1595 Wynkoop Street  
Denver, Colorado 80202-1129  
Attn: Akash Johnson

In accordance with the instructions in Enclosure 1, please provide the information requested in Enclosure 2 and Enclosure 4. The Tribe's responses to this request **must be accompanied by a signed and dated statement of certification**. It must be signed by an individual who is authorized by the Tribe to respond to this request. The statement of certification must state that the response is complete and contains all information and documentation available to the Tribe that is responsive to this request. A sample statement of certification is Enclosure 3.

The Tribe may claim that the EPA should treat any of the requested information as confidential business information (CBI). To make such a claim, the Tribe will need to follow the procedures in

40 C.F.R. part 2, subpart B (as promulgated at 41 Fed. Reg. 36902 on Sept. 1, 1976, 43 Fed. Reg. 39997 on Sept. 8, 1978, and 50 Fed. Reg. 51654 on Dec. 18, 1985). If the Tribe makes a confidentiality claim, the EPA will disclose the information covered by the Tribe's claim only as allowed by that subpart. Please note that making a confidentiality claim does not guarantee that the EPA will agree that the information is entitled to confidential treatment. If the Tribe does not make such a claim when it submits the information to the EPA, the EPA may make the information available to the public without notifying the Tribe. The Tribe **is required to provide the requested information** even if it claims it is confidential.

It is very important that the Tribe respond to this request for information, and its attention to this matter is greatly appreciated. Please note that the failure to provide required information may potentially result in civil penalties of up to \$53,484 per day of violation, and that even harsher criminal consequences are possible in the case of deliberate false statements. 33 U.S.C. § 1319; see also 18 U.S.C. § 1001.

This Request for Information is exempt from the approval requirements of the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq.

For any questions concerning this information request, the Tribe should contact Akash Johnson, Environmental Engineer, NPDES Enforcement Unit, at (303) 312-6067 or [johnson.akash@epa.gov](mailto:johnson.akash@epa.gov). If the Tribe is represented by an attorney who has questions, the attorney should contact Amy Swanson, Senior Enforcement Attorney, Regulatory Enforcement Program, at (303) 312-6906 or [swanson.amy@epa.gov](mailto:swanson.amy@epa.gov).

Thank you for your cooperation.

Sincerely,



Stephanie DeJong, Unit Chief  
NPDES Enforcement Unit  
Office of Enforcement, Compliance,  
and Environmental Justice

Enclosures:

1. Instructions
2. Information Request
3. Statement of Certification
4. Blank DMRs

cc (electronic):

Crow Tribe:

The Honorable Alvin Not Afraid, Jr., Chairman  
Melissa Walby, Chief of Staff, Chairman Not Afraid  
Dennis Bear Dont Walk, Chief Executive Counsel  
Connie Howe, Environmental Director

Crow Tribe Water Resources Department:

Cedric Black Eagle, Cabinet Head  
Dion Killsback, Attorney  
Tanner Black Eagle, Operator, AWWWA

Indian Health Service:

James Courtney, Environmental Engineer

Midwest Assistance Program:

Josh Jabalera, Consulting Operator

Bureau of Indian Affairs:

Michael Addy, Superintendent, Crow Agency  
Leroy Cummins, Facilities Manager  
Josh Gust, Operator

## ENCLOSURE 1

### INSTRUCTIONS

1. Please answer each numbered item and lettered sub-item in Enclosure 2 separately, and number your response to correspond with each item and sub-item.
2. Please provide all information in your possession that is responsive to each item and sub-item in Enclosure 2. If you cannot provide any piece of information, please explain why. If any numbered item or sub-item is not applicable, please indicate "N/A".
3. If you do not know or have available in your possession any of the requested information but learn about such information, you must supplement your response to the EPA. If, after submitting your response, you learn that any portion of your response is incomplete or false, or that it misrepresents the truth, you must notify the EPA as soon as possible of the exact manner in which the information is incomplete, false, or misleading.
4. If any information or document is responsive to this request and is not within your possession, custody, or control, please identify each person from whom such information or documents may be obtained and where such information or documents are located.
5. If you have reason to believe that any other person may be able to provide additional details or documents, please provide the name, address, and if you know it, the telephone number of each person. Additionally, include a description of the additional information or documents each person may possess.
6. For purposes of this request, the following definitions apply:  
  
"Daily Maximum" ("Daily Max.") is the highest allowable discharge during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. The daily discharge is calculated as the average measurement of the pollutant over the calendar day. If only one measurement or sample is taken during the calendar day, that will be considered the average for the calendar day.

A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.

An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.

The "Lagoon" refers to the Crow Agency Wastewater Lagoon in Crow Agency, Montana.

The “Lagoon effluent monitoring point” refers to the sampling location where representative wastewater effluent samples may be collected immediately following the Lagoon’s last treatment unit and before entering the receiving water.

The “7-day (and weekly) average” is the arithmetic mean of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. The calendar week, which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains the Saturday.

The “30-day (and monthly) average” is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.

## ENCLOSURE 2

### INFORMATION REQUEST

Please complete and submit copies of the blank Discharge Monitoring Report Forms (DMRs), included as Enclosure 4, as follows:

1. For each month from October 2015 through March 2018 (30 months), compile available Lagoon effluent monitoring information and report a monthly summary of the following effluent parameters. If no data exists for any month or any parameter during a given month, indicate "no sample" on the DMR form. Provide a response to this part **within 30 days of receipt of this letter.**
  - a. 5-Day Biochemical Oxygen Demand
  - b. Total Suspended Solids
  - c. *Escherichia coli* (*E. coli*)
  - d. Fecal coliform
  - e. pH
  - f. Flow
  - g. Total Ammonia Nitrogen, as Nitrogen
  - h. Total Nitrogen
  - i. Total Phosphorus

2. For each month from April 2018 until the issuance of a requisite NPDES permit for the Lagoon, report a monthly summary of the following effluent parameters as monitored according to test procedures approved under 40 CFR Part 136. Submit completed DMRs requested in this part on a monthly basis, postmarked no later than the 28<sup>th</sup> day of the month following the reporting period.

Parameter	Monitoring Frequency	Sample Type
5-Day Biochemical Oxygen Demand, mg/L	Monthly	Grab
Total Suspended Solids, mg/L	Monthly	Grab
<i>Escherichia coli</i> ( <i>E. coli</i> ), colonies/100 mL	Monthly	Grab
pH, standard units	Weekly	Instantaneous
Flow, MGD	Weekly	Instantaneous
Total Ammonia Nitrogen, as Nitrogen, mg/L	Monthly	Grab
Total Nitrogen, mg/L	Monthly	Grab
Total Phosphorus, mg/L	Monthly	Grab
Oil and Grease, Visual	Weekly	Observation
Oil and Grease, mg/L	If sheen observed (see Note I, below)	Grab

Notes:

- I. If no sheen is observed during weekly Oil and Grease observations, report “no sample” in the respective “VALUE” fields on the DMRs
- II. On the DMRs, the entries in the “PERMIT REQUIREMENT”, “FREQUENCY OF ANALYSIS”, and “SAMPLE TYPE” fields are the respective effluent limitations, monitoring frequencies, and sample types that would apply under the National Pollutant Discharge Elimination System (NPDES) Fact Sheet for the EPA Region 8 General Permit for Wastewater Lagoon Systems in Indian Country.
- III. For DMR cells marked “--”, no information is requested.
- IV. For your convenience, fifty copies of blank DMRs are included in the copy of Enclosure 4 transmitted to Mr. Hall. EPA can provide additional copies of blank DMRs upon request.

**ENCLOSURE 3**

**STATEMENT OF CERTIFICATION**

**Crow Tribe**

**Response to Request for Information Pursuant to Section 308 of the Clean Water Act**

I certify under penalty of law that this response and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Date



**ENCLOSURE 4**

**BLANK DISCHARGE MONITORING REPORT FORMS**

**Crow Agency Wastewater Lagoon**

PERMITTEE NAME/ADDRESS (Include Facility Name/Location if Different)  
NAME Crow Tribe Water Resources  
ADDRESS Department

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)  
DISCHARGE MONITORING REPORT (DMR)

Form Approved.  
OMB No. 2040-0004

Expired	001
PERMIT NUMBER	DISCHARGE NUMBER

FACILITY LOCATION Crow Agency Wastewater Lagoon

MONITORING PERIOD							
YEAR	MO	DAY	FROM	TO	YEAR	MO	DAY

☐ Check here if No Discharge

NOTE: Read Instructions before completing this form

PARAMETER		QUANTITY OR LOADING			QUALITY OR CONCENTRATION				NO. EX	FREQUENCY OF ANALYSIS	SAMPLE TYPE
		VALUE	VALUE	UNITS	VALUE	VALUE	VALUE	UNITS			
5-Day Biochemical Oxygen Demand (BOD5)	SAMPLE MEASUREMENT	--	--	--			--	mg/L	--		
	PERMIT REQUIREMENT	--	--		30-D Avg (30)	7-D Avg (45)	--			(1)	grab
Total Suspended Solids (TSS)	SAMPLE MEASUREMENT	--	--	--			--	mg/L	--		
	PERMIT REQUIREMENT	--	--		30-D Avg (30)	7-D Avg (45)	--			(1)	grab
Escherichia coli	SAMPLE MEASUREMENT	--	--	--		--		col/100 mL	--		
	PERMIT REQUIREMENT	--	--		30-D Avg (126)	--	Daily Max (410)			(1)	grab
Fecal coliforms (not requested for samples collected April 2018 onwards)	SAMPLE MEASUREMENT	--	--	--			--	col/100 mL	--		
	PERMIT REQUIREMENT	--	--		30-D Avg (2,900)	7-D Avg (2,900)	--			(1)	grab
pH	SAMPLE MEASUREMENT	--	--	--	--			s.u.	--		
	PERMIT REQUIREMENT	--	--		--	Min (6.5)	Max (9.0)			(4)	inst
Flow	SAMPLE MEASUREMENT			MGD	--	--	--	--	--		
	PERMIT REQUIREMENT	30-D Avg	Daily Max		--	--	--			(4)	inst
Total Ammonia Nitrogen (as N)	SAMPLE MEASUREMENT	--	--	--				mg/L	--		
	PERMIT REQUIREMENT	--	--		30-D Avg	7-D Avg	Daily Max			(1)	grab
NAME/TITLE PRINCIPAL EXECUTIVE OFFICER		I CERTIFY UNDER PENALTY OF LAW THAT THIS DOCUMENT AND ALL ATTACHMENTS WERE PREPARED UNDER MY DIRECTION OR SUPERVISION IN ACCORDANCE WITH A SYSTEM DESIGNED TO ASSURE THAT QUALIFIED PERSONNEL PROPERLY GATHER AND EVALUATE THE INFORMATION SUBMITTED. BASED ON MY INQUIRY OF THE PERSON OR PERSONS WHO MANAGE THE SYSTEM, OR THOSE PERSONS DIRECTLY RESPONSIBLE FOR GATHERING THE INFORMATION, THE INFORMATION SUBMITTED IS, TO THE BEST OF MY KNOWLEDGE AND BELIEF, TRUE, ACCURATE, AND COMPLETE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT FOR KNOWING VIOLATIONS.					TELEPHONE		DATE		
Crow Tribe Rep Name:											
TYPED OR PRINTED							SIGNATURE OF PRINCIPAL EXECUTIVE OFFICER OR AUTHORIZED AGENT		AREA CODE	NUMBER	YEAR

COMMENTS AND EXPLANATION OF ANY VIOLATIONS (Reference all attachments here)

PERMITTEE NAME/ADDRESS (Include Facility Name/Location if Different)  
NAME Crow Tribe Water Resources  
ADDRESS Department

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)  
DISCHARGE MONITORING REPORT (DMR)

Form Approved  
OMB No. 2040-0004

Expired	001
PERMIT NUMBER	DISCHARGE NUMBER

FACILITY LOCATION Crow Agency Wastewater Lagoon

MONITORING PERIOD							
YEAR	MO	DAY	FROM	YEAR	MO	DAY	TO

☐ Check here if No Discharge

NOTE: Read Instructions before completing this form

PARAMETER		QUANTITY OR LOADING			QUALITY OR CONCENTRATION				NO. EX	FREQUENCY OF ANALYSIS	SAMPLE TYPE	
		VALUE	VALUE	UNITS	VALUE	VALUE	VALUE	UNITS				
Total Nitrogen (N)	SAMPLE MEASUREMENT	--	--	--				mg/L	--			
	PERMIT REQUIREMENT	--	--		30-D Avg	7-D Avg	Daily Max			(1)	grab	
Total Phosphorus (P)	SAMPLE MEASUREMENT	--	--	--				mg/L	--			
	PERMIT REQUIREMENT	--	--		30-D Avg	7-D Avg	Daily Max			(1)	grab	
Oil and Grease (only requested for samples collected April 2018 onwards)	SAMPLE MEASUREMENT	--	--	--		--		mg/L				
	PERMIT REQUIREMENT	--	--		30-D Avg	--	Daily Max			(0-4)	grab	
	SAMPLE MEASUREMENT											
	PERMIT REQUIREMENT											
	SAMPLE MEASUREMENT											
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NAME/TITLE PRINCIPAL EXECUTIVE OFFICER		I CERTIFY UNDER PENALTY OF LAW THAT THIS DOCUMENT AND ALL ATTACHMENTS WERE PREPARED UNDER MY DIRECTION OR SUPERVISION IN ACCORDANCE WITH A SYSTEM DESIGNED TO ASSURE THAT QUALIFIED PERSONNEL PROPERLY GATHER AND EVALUATE THE INFORMATION SUBMITTED. BASED ON MY INQUIRY OF THE PERSON OR PERSONS WHO MANAGE THE SYSTEM, OR THOSE PERSONS DIRECTLY RESPONSIBLE FOR GATHERING THE INFORMATION, THE INFORMATION SUBMITTED IS, TO THE BEST OF MY KNOWLEDGE AND BELIEF, TRUE, ACCURATE, AND COMPLETE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT FOR KNOWING VIOLATIONS.						TELEPHONE		DATE		
Crow Tribe Rep Name:												
TYPED OR PRINTED												
		SIGNATURE OF PRINCIPAL EXECUTIVE OFFICER OR AUTHORIZED AGENT						AREA CODE	NUMBER	YEAR	MO	DAY

COMMENTS AND EXPLANATION OF ANY VIOLATIONS (Reference all attachments here)